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ABSTRACT

This speech addresses the No Child Left Behind Act (NCLB) and educators' and policymakers' reactions to it. The talk focuses on three ways people are responding to the Act. Some, according to the speaker, consider the law to be malevolent and a conspiracy by the Bush Administration to start handing education over to private corporations. This camp suggests that NCLB seeks to undermine education because it does not provide adequate funding to support all the changes the act requires. Others respond to NCLB by worrying about compliance. State departments of education staff, central-office staff of local school districts, and local administrators are spending a lot of time, according to the speaker, trying to figure out exactly what the law means and how to implement it. The third way people are responding to NCLB is largely hypothetical as of yet. The speaker suggests that educators should seize NCLB as an opportunity for creativity, not in implementing the law, but in using it to improve teacher quality and to enable all students to become academically proficient. (WFA)

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NCLB: Conspiracy, Compliance, or Creativity?

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Remarks of Hayes Mizell on April 25, 2003, to the spring conference of the Maryland Council of Staff Developers. Approximately 100 educators attended the conference at the Howard County Schools Faulkner Ridge Staff Development Center in Columbia, MD. Mizell is the Distinguished Senior Fellow of the National Staff Development Council. He is currently closing out his sixteen-year tenure as Director of the Program for Student Achievement at the Edna McConnell Clark Foundation.

NCLB: Conspiracy, Compliance, or Creativity?

All of us have flown on airplanes, so we all know that terrain looks different at 30,000 feet than at ground level. It is only from high in the air that we can discern the geometrical symmetry of Midwestern corn and wheat fields. Though many of us live in or near cities, only when we leave our earth-bound perspective do we realize forests still dominate much of our country's landscape. What we experience on the ground as complex and confusing appears from the sky to be simple and orderly. It is, however, difficult for us to maintain the fresh perspective that flight makes possible. Though we gain new insights from 30,000 feet, too often we forget what we have learned when we return to the grimy particularities of daily life on earth.

Judging from current reactions to the No Child Left Behind Act (NCLB), it appears some people are badly in need of the perspective distance can provide. Representative Richard Gephardt, campaigning in Iowa for the Democratic Party's nomination for President, characterized the NCLB as "a phony gimmick. We were all suckered into it..It's a fraud." An Illinois journalist described the NCLB as "just the..latest knee-jerk, quick-fix scheme to repair a badly damaged education system." In his view, the law should be called the "The No Child Left Untested Act." In North Carolina, an editorial writer faulted the NCLB because it does not provide states "a

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roadmap to more effective strategies to raise academic proficiency." The leader of a Michigan teachers union objected to the NCLB's teacher quality requirements, saying that while he wants "the best possible" teachers in classrooms, "In some cases, unfortunately, that means an uncertified teacher who is trying very hard." And in New Hampshire, Minnesota, and Hawaii, legislators are proposing resolutions that could result in their states opting out of the NCLB and losing hundreds of millions of dollars in Title I and other federal funds.

What has prompted these strong reactions is a law that is more than 600 pages long, containing about 150,000 words. Though the law has received a lot of attention because of its requirements, much of the NCLB lists what states and school systems *can* do rather than what they *must* do to achieve a new national goal: By at least 2014 all students completing the eighth grade "will meet or exceed [each] State's proficient level of academic achievement on the State assessments" for mathematics and reading or language arts.

Critics of The No Child Left Behind Act can find plenty to complain about in the law's dense and circuitous language that is a classic result of our country's democratic political process. If the law is, as some critics charge, "one size fits all," it is no more so than most state legislation, school board policy, and classroom pedagogy. Maybe the NCLB is naive in assuming that all schools and all students will make inexorable progress towards demonstrating proficiency, just as many educators are naive in assuming that all students should enter their classes performing at grade level. Maybe the NCLB does overestimate the capacity of states, school systems, and schools to implement the law, just as many schools overestimate the capacity of some educators to teach

effectively with limited content knowledge. The NCLB is not flawless, but it is not an aberration. Its mistakes, to the extent they exist, are not unlike those of the legislative and regulatory process at any level of government. Perhaps the law could have been wiser, more practical, and less complex, and perhaps over time it will become so, but it does represent a legitimate means to achieve a necessary end.

The reason the NCLB exists is simple. For decades, local policymakers and school officials turned a blind eye to a set of vexing problems in public education. In practice, there was a situational definition of teacher quality. No one thought anything about, as one principal said, scheduling "a physical education teacher to fill in for one class of history." It was a common practice for middle school principals to employ elementary certified teachers because it provided the principals maximum flexibility in assigning teachers to classes, whether or not the teachers were qualified to teach those classes. Communities were complacent about persistently low-performing schools so long as the children of the community's economic, political, and social power structure did not have to attend those schools. In effect, educators adopted the position that "the poor you will always have with you" as the reason these schools did not significantly improve student performance, though some schools elsewhere demonstrated that students from low-income families *could* make impressive gains in academic achievement. When school boards and superintendents failed to take aggressive actions to reform the low-performing schools, parents had few options other than to move out of their school attendance area and most could not afford to do that. Many children brought home report cards with inflated grades that did not accurately communicate students' true performance levels. In most school systems it was almost impossible for families to

obtain information about what their children should be learning, or their actual levels of performance. In many communities there was a perverse social contract between citizens and school officials. The community would settle for the continuous improvement of the performance of *some, but not all*, students so long as school system leaders maintained tranquility, provided basic education services and idiosyncratic indicators of success, and avoided scandal.

The NCLB, then, is what we refer to in the vernacular as, "chickens coming home to roost." The circumstances that produced the NCLB did not become manifest in just the past few years. They existed for decades. Leaders of communities and school systems and schools had every opportunity, just as they do now, to demonstrate that they had the will and know-how to attack and remedy the problems I have just described. Some did, but most failed to do so. In spite of many warning signs that voters and business and political leaders were impatient with education officials' inattention to these issues or their failure to address them effectively, there was not compelling evidence of widespread change. School board members and educators had the responsibility and authority to tackle these difficult issues but they defaulted in both regards. The No Child Left Behind Act is the result.

People are now responding to the NCLB in one of three ways. First, there is the group that considers the law to be malevolent. A Pennsylvania superintendent represented this view when he said: "This is the most anti-public school legislation that's ever been passed. Its intention is to destroy public education in this state." A staff member of a school reform organization believes the law stems from "a conspiracy by the Bush administration to start handing education over to private corporations." The

conservative journal *Human Events* lists the NCLB as one of the "ten most outrageous government programs" and says it "has vastly accelerated the federalization of education." Many educators believe the NCLB sets unreasonable expectations that schools cannot meet and this will provide ammunition for those who advocate vouchers and other alternatives to public education. Another view is that the NCLB "could dismantle a public school system," because it applies equally to small school systems where many, but not all, students are performing at high levels *and* to larger school systems where many more students are not performing well.

Still another perspective is that the law seeks to undermine public education because it does not provide adequate funding to support all the changes the NCLB requires. A Connecticut mayor has said that the law is "a great package, but it's useless without money behind it. No Child Left Behind is not a high priority when we need to make sure our classrooms have textbooks and teachers." In response to the NCLB, one national organization of principals is protesting against what it calls "unfunded federal mandates," but last week in New Jersey it was *local citizens* who rejected the budgets of 63 percent of school systems that depend on voters to approve their funding. A forthcoming report based on a study of ten states alleges that seven of the states "would have to set aside 24 percent more money for education to comply with all the requirements" of the law. Even *The New York Times* has been critical of the Bush administration's failure to seek the authorized funding for NCLB. Last month, a *Times* editorial said that the President's "failure to finance the law properly has discouraged recession-strapped states from embracing it fully." There *should* be significantly more funding for the No Child Left Behind Act, but effective education for all children cannot

wait until local education leaders declare that their school systems have adequate funding. That day will never come.

It is certainly true that the NCLB is a political initiative that relies more on regulation than on financial incentives and other supports for reform. It is also true the Bush administration encourages suspicion about its motives when its actions and rhetoric signal that it is not committed to making public schools *the* best means to educate this nation's children. This does not mean, however, that the NCLB is the product of a conspiracy to undermine public schools. The NCLB may be a heavy-handed attempt to improve public education, but attacks by its critics have the hollow ring of people unburdened by either the inclination or responsibility to change the *status quo*.

Yes, there is criticism of the NCLB. Some of it may be appropriate. Some of it may be an expression of pain caused by the stretching required to implement the law. I am reminded of an advertisement for the United States Marines that says, "Pain is weakness leaving the body." If school systems use the NCLB to overcome weaknesses that have resulted in the achievement gap and significant variations in educational opportunities, the short-term pain will be a small price to pay.

The second way in which people are responding to the law is to worry about compliance. This seems to be the case with many administrators responsible for implementing the law. They include state department of education staff and those in the central offices of local school systems. These days they are spending a great deal of time trying to figure out exactly what the law means and how to implement it within both the NCLB's mandated timelines and the constraints of limited resources and competing priorities.

It is understandable that state department of education and central office staff are focusing on the nuts-and-bolts of how to comply with the NCLB, but there is a danger in doing so. Staff may become so focused on NCLB compliance issues that they lower their expectations of their own roles. Almost without them realizing it, they may become *de facto* compliance officers and forfeit their roles as education leaders. Instead of viewing themselves as leaders who use their positions to challenge and support other educators to perform at higher levels, they may see their roles primarily as making sure that educators comply with the detailed provisions of the NCLB, and assisting them in doing so. If this occurs, it will be a net loss for education reform.

When educators slavishly chain themselves to every provision and word of the NCLB, they are either afraid of the consequences of not doing so or they lack the will and self-confidence to demonstrate they can more effectively and rapidly meet the NCLB goals by other means. Whichever is the case, it is a bad omen for public education when educators resign themselves to being victims rather than leaders. Educators, not federal or state laws, should be the torchbearers for day-to-day practices that cause all students to dramatically improve their academic performance. Until educators take initiative, without direction from policymakers, to set and enforce high standards for themselves and their students, and until they demonstrate the courage to do ***whatever it takes*** for them and their students to perform at higher levels than policymakers can imagine, educators will continue to be more concerned with rules than with results.

At its best, the NCLB is a call for educators to do the right thing, to do what they should have been doing all along. It is a spur that can motivate and focus educators to take action on issues they have neglected. This does not mean, however, that the NCLB

is the final word on the most effective means to achieve the ends the law seeks. It is not a roadmap. It is not a cookbook. If it were, there would be even louder howls about the "federalization of education." The law's potential is not in the details of its implementation, but in causing educators to finally devote serious attention to issues of teacher quality and student performance. They are a little late: 141 years after the Emancipation Proclamation, 49 years after *Brown v. Board of Education*, and 39 years after The Civil Rights Act. But we can begin to see the NCLB's effect when in Louisiana the abysmal performance of African-American students prompted a member of the state board of education to say:

> "We will never reach our goals as a state if we don't improve the performance of our poor and black students. If you don't measure it, then you don't count it. If you don't count it, then you don't pay attention. And if you don't pay attention to it, then you don't fix it."

To this, the state superintendent of education added, "We're calling on local school districts to begin introducing policies that truly mean no child is left behind."

These statements reflect some of the spirit that must guide NCLB implementation. But there is a real danger that staffs of state and local education agencies may lapse into a compliance orientation that reduces the NCLB's effects to a mechanistic process of implementation. If this occurs, the NCLB will become a lost opportunity to qualitatively improve the education of students who are now struggling to become academically proficient.

The third type of response to the NCLB is largely hypothetical. We can hope that rather than wasting energy on reacting to the law as a conspiracy, or getting off task by

obsessing about compliance, educators will seize the NCLB as an *opportunity for creativity*. Exemplars of this response are not yet surfacing, though state departments of education, education organizations, and advocacy groups should start identifying and recognizing them. Here I am speaking of creativity not in implementing the law, but rather *using* the law to improve teacher quality and enable all students to become academically proficient. Implementing the law and using the law are not the same. Efforts to *implement* the law focus on minimums, the least effort required to demonstrate compliance. Efforts to *use* the law focus on maximums, milking the law for all it is worth to generate new vision and commitment, and put in place more effective policies and practices.

As some of you know, earlier this year the National Staff Development Council called for volunteers to serve as members of a NCLB Task Force. The Task Force now includes 28 practitioners from 26 states representing state departments of education, intermediate education service agencies, local school systems, a few schools, and teacher unions. Task Force members have identified a variety of NCLB provisions they believe will prompt states and school systems to improve the quality of professional development.

One member concluded that the NCLB's requirements will "force us to develop a deeper shared understanding of 'high quality' professional development, approach our work with greater 'rigor,' examine our outcomes more closely, and establish clear and measurable indicators that connect as closely as possible to improved student achievement." Another Task Force member observed, "When dollars are tied to change, even the nay-sayers take notice."

These observations indicate that some Task Force members regard the NCLB as a lever staff developers can use to nudge educators towards practices they should have been valuing for years. An example is the section of the law that calls for needs assessments to "take into account" the knowledge and skills teachers and principals must have to help students meet academic standards. According to one Task Force member this can "help to focus our schools on quality staff development AND the processes we support – data-driven decision making, improving teacher knowledge and skills, leadership development, monitoring and reflection." Another Task Force member has cited the importance of the NCLB section requiring collaboration among teachers, paraprofessionals, principals, and parents in planning professional development. She believes that "too often in the past decisions which affect many have been made by a few people working in isolation" and there is a need to "broaden the thinking base."

While Task Force members are hopeful about the impact of the NCLB, they are sober about how states and school systems will respond to the law. On the whole, they are skeptical about the outcomes of the requirement that all teachers in core subjects must be "highly qualified" by the end of 2005-2006. Some believe the school systems and schools they know about will not meet the deadline. Others feel that while the law will result in many more teachers meeting narrow *credential* criteria for "highly qualified," the teachers will not necessarily be more knowledgeable about the subjects they teach nor will they be more effective instructors. This presents a great opportunity for states and school systems to demonstrate creative leadership. They can choose to go *beyond* merely implementing the narrow requirements of the law rooted in certification to develop a definition of teacher quality emphasizing the practical knowledge and skills educators

need to help students perform proficiently. Elaborating a more meaningful operational definition of teacher quality will be challenging, but it will be only half the battle. States and school systems will then need to put in place strategies that will result in teachers whose *practice*, as well as credentials, demonstrate they are highly qualified.

There are other opportunities to use the NCLB creatively. Schools do not have to hope that tomorrow will never come and ignore the goal of all students performing proficiently by the end of the eighth grade in 2014. They can *challenge* the goal and make a public commitment to reach the goal well *before* the 2014 target date. School systems do not have to merely go through the motions of disaggregating student achievement data. They can organize and facilitate conversations where small groups of teachers, parents, and community leaders learn to *understand* the implications of the data, and forge a compact of mutual accountability for attacking the problems it reveals. Schools do not have to just wring their hands over achieving aggregate adequate yearly progress. They can choose to work with each student and his or her family to reach consensus about improvements in academic performance that would represent adequate yearly progress for the individual child, and how to work together to monitor and achieve it. School systems do not have to just duck their heads and hope that neither the state nor the federal government will expect them to take seriously the NCLB's definition of professional development. Instead, a school system can zero in on the linchpin of that definition, the evaluation section, and act on it to make sure the school system is getting the greatest return possible on its financial investment in adult learning.

Once again, however, the choice is up to local school officials and educators. Maybe they will grudgingly accept the law with zombie-like compliance devoid of will

and soul. In those cases, there may be some serendipitous beneficial results but they will be few. Maybe the leaders of school systems and schools will use the law as "cover," to justify reforms they knew were necessary but for which they previously lacked political support or intestinal fortitude. If these reforms are thoughtful and draw on the vast body of school reform experience and research, they may produce important results.

But the greatest potential of the NCLB is when local school officials and educators make the effort to leave their earth-bound perspectives and view the NCLB from 30,000 feet. Perhaps it is only from that distance that they can see the outline of excellence and equity otherwise obscured by the law's details. If educators can gain that perspective, and hold on to it as they wrestle with the NCLB, they may choose to use it creatively to hold their states, school systems, schools, and themselves to standards of performance far exceeding what the law requires.

It is now fashionable for some people to mock the words "No Child Left Behind" as empty political rhetoric. The NCLB may ultimately collapse under the weight of its ambition, but as far as I can recall this is the first time the United States has ever made even a rhetorical, much less a legislative commitment to the ideal that public schools should educate *every single child to perform proficiently*. The words and concept of "No Child Left Behind" do not belong to one ideology or one political party. "No Child Left Behind" does not belong to George Bush or Rod Paige, and educators should not, by default, let any one person or group expropriate that language and concept for their own purposes. It is entirely possible to take those words and corrupt them through duplicity and hollow implementation. It is also possible to seize the fundamental principles of

NCLB and in the crucible of local practice grind out more effective behaviors, knowledge, and skills to realize the law's *legitimate* goals.

Every educator is now deciding how to respond to the NCLB. Some see it as a conspiracy and use that as an excuse for resistance. Others worry about compliance and act out of fear rather than hope. I encourage you to choose the third, more difficult way. Put your *intellect* to work. Unfetter your *imagination*. Muster your *courage* to creatively shape the NCLB in whatever ways are necessary to raise the authentic performance of students, teachers, and administrators. Reject "No Child Left Behind" as a slogan, but transform it into reality.

Thank you.

Hayes Mizell's most recent article is his "Forum" commentary in the Spring 2003 issue of JSD: The Journal of the National Staff Development Council (p. 80).

Other speeches by Hayes Mizell are available at:
http://www.middleweb.com/mw/resources/HMreader.html

The Edna McConnell Clark Foundation has published a collection of Mizell's speeches in the book, *Shooting for the Sun*. Copies are available without cost while supplies last by sending an e-mail request to info@emcf.org. The complete book is also on the Internet at: http://www.emcf.org/programs/student/shootingforthesun.htm

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